

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
(AMARILLO DIVISION)**

DAVID PATRICK GOAD,

Plaintiff,

v.

**ANDREW CODY LACKEY a/k/a
CODY LACKEY and CL SPECIALTY
CONSTRUCTION, LLC,**

Defendants.

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Case No. 2:24-cv-124

NOTICE OF REMOVAL

Defendant **ANDREW CODY LACKEY a/k/a CODY LACKEY** files this Notice of Removal and hereby removes Case No. 112122-C-CV from the 251st District Court of Potter County pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, and as grounds for removal states as follows:

STATEMENT OF THE CASE

1. On May 7, 2024, Plaintiff filed his Original Petition in the 251st District Court of Potter County, Texas, styled *David Patrick Goad v. Andrew Cody Lackey a/k/a Cody Lackey and CL Specialty Construction, LLC*, Cause No. 1121122-C-CV (the “State Court Action”). A copy of the Original Petition is attached as Exhibit A hereto.

2. Defendant CL Specialty Construction, LLC was served with the citation and petition, and answered the case on May 30, 2024.

3. Defendant Lackey was served with the citation and petition on May 7, 2024, and he answered the case on June 3, 2024.

4. The petition alleges Defendant Lackey committed intentional acts by striking Plaintiff and then fleeing the scene. The petition also contends that Defendant Lackey was reckless and acted with gross negligence. Last, the petition contends that Defendant Lackey was acting within the course and scope of his employment with Defendant CL Specialty Construction, LLC.

5. Plaintiff seeks compensatory monetary damages from Defendants in an unspecified amount but greater than \$1,000,000.00.

6. Defendant's Notice of Removal is being filed within thirty (30) days after service of Plaintiff's Original Petition on Defendant.

DIVERSITY JURISDICTION UNDER 28 U.S.C. § 1332(A)

7. This Court has jurisdiction over this matter under 28 U.S.C. § 1332(a) because there is complete diversity of citizenship between Plaintiff and Defendants, and more than \$75,000.00, exclusive of interest and costs, is at stake.

8. Plaintiff alleges in his petition that he is a resident of the State of Texas, and his primary residence is in Amarillo, Potter County, Texas. Defendants, however, are not citizens of the State of Texas. Rather and as Plaintiff notes in his petition, Defendant CL Specialty Construction, LLC's principal place of business is 160 Michaels Cove, Talladega, Talladega County, Alabama 35160. Additionally, Plaintiff notes that Defendant Lackey is a citizen of Alabama, residing at 160 Michaels Cove, Talladega, Talladega County, Alabama 35160. Therefore, complete diversity exists.

9. Plaintiff requests unspecified compensatory damages in excess of \$1,000,000.00, plus costs of suit. Thus, the controversy well exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and the jurisdictional threshold under 28 U.S.C. § 1332(a) is satisfied.

ALL PROCEDURAL REQUIREMENTS FOR REMOVAL HAVE BEEN SATISFIED

10. Pursuant to 28 U.S.C. § 1446(b) and Local Rule 81.1(a), a true and correct copy of the following have been attached to this Notice of Removal: (a) an index of all documents that clearly identifies each document and indicates the dates the document was filed in state court (Index of Matters Filed Upon Removal), along with each document filed in the state court action; (b) a list of counsel of record for all parties; (c) a completed civil cover sheet for the federal court filing; and (d) a supplemental civil cover sheet for removal. Further, a separate signed certificate of interested persons that complies with Local Rule 3.1(c) will be filed contemporaneously with this Notice of Removal. There is no docket sheet in the state action. In addition, there are no related cases as defined by Local Rules 3.3(b)(3) or b(4). Promptly after filing this Notice of Removal, Defendant will file a Notice of Filing Notice of Removal in the State Court Action.

11. This Notice of Removal has been filed within 30 days of the date that Defendant Lackey was served with the citation and Petition in this matter. Removal is therefore timely in accordance with 28 U.S.C. § 1446(b).

12. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because the U.S. District Court for the Northern District of Texas (Amarillo Division) is the federal judicial district embracing the 251st District Court of Potter County, Texas, where the State Court Action was originally filed.

13. Written notice of the filing of this Notice is being served on all adverse parties as required by 28 U.S.C. § 1446(d). A true and correct copy of this Notice will be filed with the District Clerk of Potter County, Texas, as required by 28 U.S.C. § 1446(d).

CONSENT BY DEFENDANT CL SPECIALTY CONSTRUCTION, LLC

14. Counsel for Defendant CL Specialty Construction, LLC consents to this removal.

CONCLUSION

15. By this Notice of Removal, Defendant does not waive any objections he may have as to service, jurisdiction or venue, or any other defenses or objections he may have to this action. Defendant intends no admission of fact, law or liability by this Notice, and expressly reserves all defenses, motions and/or pleas.

Respectfully submitted,

MICHAEL L. BYRD & ASSOCIATES

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By: /s/ J. Landon K. Schmidt

J. LANDON K. SCHMIDT
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Attorneys for Defendant Andrew Cody Lackey

CERTIFICATE OF SERVICE

On June 5, 2024, I filed the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas. I hereby certify that I have served the document on all counsel of record by a manner authorized by Federal Rules of Civil Procedure 5(b)(2).

/s/ J. Landon K. Schmidt

OF COUNSEL